GC

GC(42)/19
21 September 1998

International Atomic Energy Agency
GENERAL CONFERENCE

GENERAL Distr.
Original: ENGLISH

Forty-second regular session
Item 17 of the provisional agenda
(GC(42)/2)

REPORT OF THE BOARD OF GOVERNORS ON ARTICLE VI OF THE STATUTE

PART I

BACKGROUND

1. In its resolution GC(41)/RES/20 on the Amendment of Article VI of the Statute adopted on 3 October 1997, the General Conference, while welcoming the formal proposals submitted by Sudan (on behalf of the African Group), Canada (as part of the Chairman's package) and Morocco (all of which are contained in the Appendices to document GC(41)/11), requested the Board of Governors to develop within a timetable a process of negotiations among Member States, taking account of these proposals, and to submit its report on a finalized formula for approval by the General Conference at its forty-second regular session in accordance with Article XVIII of the Statute.

2. Through the Presidential Statement (GC(41)/DEC/10), the Conference also requested the Chairman of the Board to continue to consult with Member States not yet listed in a regional area as well as with other Member States, including representatives of the regional areas, and to report for consideration of the forty-second session of the General Conference, specific proposals to include each Member State within the appropriate area at the time of the General Conference in September 1998.

3. The Board, at its meeting on 6 October 1997, agreed that its Chairman should conduct the negotiations called for in resolution GC(41)/RES/20 and in decision GC(41)/DEC/10. Subsequently, the Chairman held extensive consultations with Member States on both of these matters.

4. In addition to these bilateral consultations, the Chairman convened five open-ended consultation meetings on 21 November 1997, 15 January, 24 March, 12 and 15 May 1998 respectively.

5. In the course of these consultations, three new informal proposals were made by Pakistan (in 1998/NOTE 21), the USA (in 1998/NOTE 28) and the Chairman of the Board (in 1998/NOTE 38). These build on the formal proposals which were before the General Conference last year.

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6. The three proposals addressed the issues of the expansion of the Board, the composition of area groups and the criteria and indicators to be used as guidelines for Board designations as an integrated package the elements of which are widely regarded as being central to any revision of Article VI.

7. At the Board's June session, these proposals were considered. While there was no consensus as yet, there was nevertheless an acknowledgement that the aspects on which further consultations are necessary had been narrowed down considerably. There was now also a greater appreciation of the parameters within which an acceptable outcome concerning the revision of Article VI could be reached.

8. On the question of the expansion of the Board, the difference related only to one seat, but that in the view of many was crucial. On the question of the composition of area groups, while some considered that the exact role of area groups is still to be agreed upon, others insisted on the primary responsibility of these groups to determine their own composition.

9. After the June session, Japan formally proposed an amendment to Article VI.A of the Statute. Certified copies of the text of the Japanese amendment were communicated by the Director General to all Member States by Circular Letter N5.11.6 Circ. of 22 June 1998 (attached to this report as Annex I).

10. At its pre-General Conference session last week, discussion on the issue was focused on the Japanese proposal. The discussion also took into account the issue of criteria and indicators to be used as guidelines in designating members to the Board of Governors contained in the Attachment to 1998/NOTE 38. This was also before the General Conference last year and is attached hereto as Annex II.

PART II

11. The Board had a wide-ranging discussion on the proposal by Japan contained in Circular Letter N5.11.6 of 22 June 1998.

12. The Board was not able to reach agreement on the Japanese proposal. Some members favoured an expansion of the Board by seven (7) members without any linkage of the issues cited in paragraph 6. Other members agreed to an expansion by six (6) but only in the context of a comprehensive solution to the three issues cited in paragraph 6.

13. The Board was not able to reach consensus on the following proposal by the Chairman:

> "*In adopting the Japanese proposal to amend Article VI, the General Conference decides that the President of the Conference should read the following as a decision of the Conference:*
>
> *With regard to the list provided for in paragraph K of Article VI, the General Conference agrees that the list, which is intended to facilitate the right of all Member States to seek membership of the Board of Governors based on their sovereign equality, will be prepared by the Chairman of the Board, in consultation with the area groups, subject to adoption by the*

Board and the General Conference respectively in accordance with the provisions of paragraph K. It also recognizes that political consultations and co-ordination which take place among interested States will be conducted in a manner which respects their wishes."

14. The hope was expressed that consultations will be intensified during the coming days with a view to resolving the outstanding issues at the forthcoming session of the General Conference.

15. A divergence of views also remained on the issue of criteria and indicators contained in the Attachment to 1998/NOTE 38. With regard to this matter the Chairman proposed that the Board take a decision thereon as soon as possible after the General Conference has adopted an amendment to Article VI. When Article VI, as amended, entered into force, the criteria and indicators as decided by the Board should be taken into consideration as guidelines in designating members of the Board pursuant to Article VI.A.1.

16. The Board decided to transmit the Japanese proposal with the above observations to the General Conference as constituting its observations on the Japanese proposal as required by Article XVIII.C of the Statute and as its response pursuant to resolution GC(41)/RES/20 adopted by the General Conference last year. The summary records of the Board's discussion will also be before the General Conference.

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AGENCE INTERNATIONALE DE L'ENERGIE ATOMIQUE
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IN REPLY PLEASE REFER TO:
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N5.11.6 Circ.

The Director General of the International Atomic Energy Agency presents his compliments to the Ministers of Foreign Affairs of Member States and has the honour to communicate herewith, pursuant to Article XVIII.A of the Statute, a certified copy of the text of a proposal for amendment of Article VI thereof.

The Director General of the International Atomic Energy Agency avails himself of this opportunity to renew to the Ministers of Foreign Affairs of Member States the assurances of his highest consideration and esteem.

22 June 1998

Enclosure

AMENDMENT TO ARTICLE VI OF THE STATUTE PROPOSED BY JAPAN

I. Replace paragraph A. of Article VI of the Agency's Statute by the following:

"The Board of Governors shall be composed as follows:

1. The outgoing Board of Governors shall designate for membership on the Board seventeen members on the basis of advancement in the technology of atomic energy including the production of source materials. The designated seats shall be distributed among the areas mentioned below as follows:

North America	2
Latin America	2
Western Europe	4
Eastern Europe	2
Africa	1
Middle East and South Asia	2
South East Asia and the Pacific	1
Far East	3

2. The General Conference shall elect to membership of the Board of Governors:

(a) Twenty-one members, with due regard to equitable representation on the Board as a whole of the members in the areas listed in sub-paragraph A.1 of this article, so that the Board shall at all times include in this category:

four representatives of the area of Latin America,
four representatives of the area of Western Europe,
three representatives of the area of Eastern Europe,

five representatives of the area of Africa,
three representatives of the area of the Middle East and South Asia, and
two representatives of the area of South East Asia and the Pacific.

(b) Two further members from among the members in the following areas:

Eastern Europe
Africa
Far East

(c) One further member from among the members in the following areas:

Latin America
Western Europe
Middle East and South Asia"

and,

II. Add at the end of Article VI the following new paragraph:

"K. the provisions of paragraph A of this Article, as approved by the General Conference on .. 1998, shall enter into force when the requirements of Article XVIII.C are met and the General Conference confirms a list of all Member States of the Agency which has been adopted by the Board, in both cases by a two-thirds majority of those present and voting, whereby each Member State is allocated to one of

the areas referred to in sub-paragraph 1 of paragraph A of this Article. Any change to the list thereafter may be made by the Board with the confirmation of the General Conference, in both cases by a two-thirds majority of those present and voting only with the consent of the Member State which is the subject of the change."

On behalf of the Director General of the International Atomic Energy Agency, I, Larry D. Johnson, Director of the Legal Division of the Secretariat, hereby certify that the foregoing is a true copy of the text of an amendment to Article VI of the Statute of the Agency which is proposed, pursuant to Article XVIII.A of the Statute, by Japan.

22 JUNE 1998

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Appendix I.A
Attachment 2
page 1

ATTACHMENT 2

The criteria and indicators to be used as guidelines in designating members to the Board of Governors*/

CRITERIA	INDICATORS
1. Nuclear Reactors	
(1) nuclear power plants	• Number of power reactors • Total nuclear power generation capacity • Total nuclear power generation capacity per capita • Percentage of total nuclear power generation • Total operating experience
(2) research reactors	• Number and type of research reactors • Number of criticality facilities • Total operating experience
(3) other nuclear reactors (e.g. FBR, advanced reactors)	• Number of reactors • Total operating experience
(4) (siting), design, construction, operation and decommissioning	Δ Design and construction capability Δ Decommissioning capability Δ Life extension & upgrading capability
(5) manufacturing and fabrication of major components	• Number of technology transfers Δ Capability to manufacture major components

*/ The above criteria and indicators are the result of the work of the Open-ended Expert Group on criteria for Board designation. The symbols against the indicators mean:

1. (a) Indicators with round bullets (•) could be, subject to the availability of appropriate statistics, definable and measurable in terms of quantity.

   (b) Indicators with triangles (Δ) could be evaluated either in positive/negative terms (i.e. "yes"/"no") or by some other possible grading method.

   (c) Indicators with diamonds (◆) would be difficult to evaluate or measure in their current form.

2. Question marks (?) signify that views are divided on the utility of including these items in the list of criteria.

2. Production of Source Material and Nuclear Fuel Cycle Activities

(1) mining and ore processing	• Production of uranium and other nuclear materials Δ Exploration of nuclear materials Δ Technology for processing low-grade uranium ore
(2) conversion	• Number of conversion plants • Annual capacity for conversion
(3) enrichment	• Annual production capacity of enriched uranium
(4) fuel fabrication	• Annual production of uranium and thorium fuel • Annual production of MOX fuel Δ Capability to produce any other nuclear fuel
(5) moderators	• Fabrication of moderator materials (e.g. beryllium and graphite) • Annual capacity to produce and upgrade heavy water
(6) reprocessing	• Number of operating plants • Tons of heavy metals reprocessed per year Δ Capability for reprocessing Δ Capability for recycling plutonium in reactors
(7) waste management (infrastructure including depository site)	Δ Capability for treatment of LLW, MLW and HLW Δ Capability for treatment of mining and milling waste Δ Spent fuel storage capability Δ Interim storage capability Δ Ultimate storage capability (repository) Δ Compliance with minimum IAEA criteria for waste management

3. Radiation Protection and Nuclear Safety

General:	Δ Effective and independent regulatory system in place Δ Adherence to IAEA supported international conventions and application of IAEA safety standards Δ Monitoring system in place Δ Personnel training
(1) radiation protection	
(2) nuclear safety	

(3) physical protection	
4. Research and Development General:	• Number of papers or reports presented and adopted in refereed journals, etc. • Total R&D budget and its percentage of GNP • Number of researchers holding doctorate degrees in fields of nuclear engineering, nuclear science, etc. • Number of patents filed related to nuclear technology Δ Universities/research institutions have relevant activities in their programmes Δ Existence of internationally recognized programme
(1) R&D in basic nuclear sciences	
(2) R&D in applied and engineering sciences	
5. Nuclear Applications	
(1) production and use of radioisotopes	• Total production of RI • Types of RI produced (from reactors and accelerators) • Total amount of RI used • Types of RI used • Number of facilities authorized to use RI Δ Processing, handling and encapsulation capacity
(2) nuclear applications in:	Δ Health and medicine Δ Food irradiation Δ Agriculture Δ Hydrology Δ Geology Δ Environmental monitoring Δ Industry
6. Contribution to International Collaboration	
(1) demonstrated training capabilities	• Number of trainees and scientific visitors received • Number of training courses organized or hosted • Number of experts from the country made available to IAEA for its activities for assisting the Agency's work as consultants in Advisory Groups/Technical Committees

(2) financial contribution to the IAEA (?)

- Payment of assessed contribution
- Payment of full share of TACF
- Voluntary and exceptional contributions other than regular budget and TACF

7. Safeguards and Non-Proliferation (?)

- Δ Party to the NPT
- Δ Conclusion of comprehensive safeguards agreements with the IAEA
- Δ Member of a nuclear-weapon-free-zone treaty
- Δ Adherence to NSG or relevant guidelines

- ♦ Commitment to the promotion of peaceful uses of nuclear energy
- ♦ Commitment to universal nuclear disarmament